IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

OP.No. 15431 of 2003(K)

PETITIONER:

C.S.SHANAWAS, S/O. SAIDUMUHAMMED,
CHATHANKODATH HOUSE, WEST VELIYATHUNADU,
ALANGADU P.O., PIN - 683 511.

BY ADV. SRI.K.A.SHAMSUDEEN
SRI.K.A.MANZOOR ALI

RESPONDENTS:
----

1. **THE KERALA STATE CIVIL SUPPLIES CORPORATION LIMITED, MAVELI BHAVAN, GANDHI NAGAR, KOCHI - 682 020, REP.BY ITS MANAGING DIRECTOR.**

2. **THE MANAGING DIRECTOR, THE KERALA STATE CIVIL SUPPLIES CORPORATION LIMITED, MAVELI BHAVAN, GANDHI NAGAR, KOCHI - 20.**

3. **THE DEPUTY TAHASILDAR, (REVENUE RECOVERY), N.PARAVUR TALUK, NORTH PARUR.**

BY ADV. SRI.GEORGE POONTHOTTAM,SC, KSCSC for R1 & R2
SRI.THOMAS MATHEW NELLIMOOTTIL,SC,SUPPLYCO
SMT.MOLLY JACOB,SC,SUPPLYCO
BY GOVERNMENT PLEADER for R3

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/08/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.25588/2003 IN O.P.NO.15431/2003 K

DISMISSED

6/08/2007 **SD/- THOTTATHIL B.RADHAKRISHNAN,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE TENDER FORM ALONG WITH THE SCHEDULE OF THE VARIETY SPECIFICATIONS ANNEXED THEREWITH DATED NIL.**

EXT.P2 SERIES (5NOS.):COPIES OF THE PURCHASE ORDERS ISSUED BY THE 2ND RESPONDENT CONTAINING THE SCHEDULE ENUMERATING DATEWISE QUANTITY TO BE SUPPLIED AND ALSO ENUMERATING THE RATE AND VALUE OF THE PURCHASE.

EXT.P3&3(A):COPIES OF THE REPRESENTATIONS SUBMITTED ON VARIOUS DATES TO THE 2ND RESPONDENT DTD. NIL.

EXT.P4: **COPY OF THE PROCEEDINGS ISSUED BY THE 2ND RESPONDENT DTD. 20/09/01.**

EXT.P5: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE HON'BLE MINISTER FOR CIVIL SUPPLIES, DTD. 13/6/02.**

EXT.P6: **COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD RESPONDENT DTD. 25/03/03.**

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.15431 of 2003-K

= =

Dated this the 6th day of August, 2007.

JUDGMENT

The petitioner had a contract in his favour, for supply of Mannarkkad variety bananas to the Civil Supplies Corporation during a particular Onam season. It turned out that he did not effect the entire supplies. He attributes his failure to a stiff competition extended by a rival, who had initially quoted for supply of Nagarcoil variety bananas for different areas, whose tender for such purpose was later allegedly modified by the Corporation permitting him to supply Mannarkkad variety bananas at a lower rate. The learned counsel for the Corporation rightly points out that it can never be treated as any favour done to any person because, having regard to the competitive price factor between the Mannarkkad variety bananas and Nagarcoil

variety bananas, it was feasible for the Corporation only to supply Mannarkkad variety bananas. This is all the more so because, the activities of the Civil Supplies Corporation are intended and directed to ensure that the common man gets commodities at cheaper prices. Therefore, the action taken by the Corporation in making alternate arrangements to make available Mannarkkad variety bananas for supply to areas where the petitioner had failed to supply cannot be found fault with.

2. As regards the amount being recovered by the Corporation from the petitioner is concerned, the entire amounts retained as security have been appropriated and the differential is also to be recovered from the petitioner. A further penalty of 20% imposed by the Corporation does not appear to be with authority or to be just and reasonable, on the totality of the facts and circumstances. Hence, it is directed that the proceedings for recovery of such penalty shall stand dropped by the force of this judgment.

The writ petition is allowed to the aforesaid extent.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.15431 of 2003-K

= =

JUDGMENT

Dated: 6th August, 2007.